

**STATE BOARD OF ELECTIONS  
STATE OF ILLINOIS**

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**EXECUTIVE DIRECTOR**  
Steven S. Sandvoss

**BOARD MEMBERS**  
Charles W. Scholz, Chairman  
Ernest L. Gowen, Vice Chairman  
William J. Cadigan  
Andrew K. Carruthers  
Betty J. Coffrin  
John R. Keith  
William M. McGuffage  
Casandra B. Watson

**AGENDA  
STATE BOARD OF ELECTIONS  
Sitting as the Duly Authorized  
State Officers Electoral Board  
Monday, September 19, 2016  
10:30 a.m.**

2329 S. MacArthur Blvd.  
Springfield, Illinois  
and via videoconference  
James R. Thompson Center – Suite 14-100  
Chicago, Illinois

**Roll call.**

1. Approval of the minutes from the August 26 meeting. (pgs.1-4)
2. Consideration of objections to independent and new party candidate nominating petitions for the November 8, 2016 General Election;
  - 1) *Stocks v. Gill*, 16SOEBGE109. (pgs.5-30)
3. Other business.
4. Recess the State Officers Electoral Board until Tuesday, October 18, 2016 at 10:30 a.m. in Chicago or until call of the Chairman, whichever occurs first.

STATE OFFICERS ELECTORAL BOARD

Friday, August 26, 2016

MINUTES

PRESENT:

Charles W. Scholz, Chairman  
Ernest L. Gowen, Vice Chairman  
William J. Cadigan, Member  
Andrew K. Carruthers, Member  
Betty J. Coffrin, Member  
John R. Keith, Member  
William M. McGuffage, Member  
Casandra B. Watson, Member

ALSO PRESENT:

Steven S. Sandvoss, Executive Director  
James Tenuto, Asst. Executive Director  
Kenneth R. Menzel, General Counsel  
Darlene Gervase, Admin. Assistant III

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The meeting of the State Officers Electoral Board began at 10:33 a.m. with all members present in the Chicago office.

Chairman Scholz asked for a motion to approve the minutes from the July 11 meeting. Member Keith so moved and Member Cadigan seconded the motion which passed unanimously by roll call vote.

Consideration of objections to independent and new party candidates' nominating petitions for the November 8, 2016 General Election began with Item 2.a. *Koehn v. Silver*, 16SOEBGE102. Michael J. Kasper was present for the Objector and no one appeared for the candidate. The minimum signature requirement is 1,824. Candidate submitted 1,325 signatures. The Candidate did not dispute the count. Neither party submitted subpoena requests nor filed Motions. The Hearing Officer recommended to Sustain the Objection and the name of Dan Silver as an Independent Candidate not be printed on the ballot for the office of 115<sup>th</sup> Representative at the November 8, 2016 General Election. The General Counsel concurred with the recommendation. Member McGuffage moved to adopt the Hearing Officer's Recommendation in which the General Counsel concurred and Sustain the Objection. Member Watson seconded the Motion which passed 8-0 by roll call vote.

John G. Fogarty, Jr., appeared for the Objector in 2.b. *Brown & Welbers v. Schreiner*, 16SOEBGE103 and no one appeared for the Candidate. The number of signatures to run for Representative in the 16<sup>th</sup> Congressional District is 11,141. The Candidate submitted 1. The Candidate did not dispute the count. Neither party submitted subpoena requests nor filed Motions. The Hearing Officer recommended to Sustain the Objection and the name of Joseph Schreiner not be printed on the ballot for the Libertarian Party Representative from the 16<sup>th</sup> Congressional District at the November 8, 2016 General Election. The General Counsel concurred with the recommendation. Member Cadigan so moved and Member Carruthers seconded the Motion which passed unanimously by roll call vote.

As to 2.c. *Bigger v. Fluckiger & Koppie*, 16SOEBGE104, Mr. Fogarty appeared for the Objector and no one appeared for the Candidates. Twenty-five thousand signatures are required for President and United States Senator. The candidates submitted 83. The Candidates did not dispute the count. Neither party submitted subpoena requests nor filed Motions. Based on the

failure to file sufficient valid signatures, the Hearing Officers recommended to Sustain the Objection and the Candidates not be certified to the November 8, 2016 General Election ballot as Constitution Party Candidates for the offices of President and United States Senator. The General Counsel concurred. Member Carruthers moved to adopt the Hearing Officer's Recommendation in which the General Counsel concurred. Member Cadigan seconded the Motion which passed unanimously by roll call vote.

Chairman Scholz call 2.d. *Bigger v. Conklin*, 16SOEBGE105 and noted the appearance of John G. Fogarty, Jr., for the Objector and no one for the Candidate. Independent Candidate, Eric M. Conklin, filed 225 signatures, however, 25,000 are required to run for United States Senator. The Candidate did not dispute the count. Neither party submitted subpoena requests nor filed Motions. The Hearing Officer recommended to sustain the Objection and not certify Independent Candidate Conklin to the office of United States Senator and the General Counsel concurred. Member Keith moved to adopt the Hearing Officer's Recommendation in which the General Counsel concurred. Member Cadigan seconded the motion which passed unanimously by roll call vote.

The General Counsel asked to move 2.e. *Wicklund v. Gill*, 16SOEBGE106 after 2.h due to an Order filed in U.S. District Court. His request was approved.

As to 2.f. *Swift & Patrick v. Harner*, 16SOEBGE107, the office for the Representative from the 117<sup>th</sup> Representative District requires 1,759 signatures. Candidate Harner submitted 731. Mr. Fogarty appeared for the Objector and no one appeared for the Candidate. The Candidate did not dispute the count. Neither party submitted subpoena requests nor filed Motions. The Hearing Officer recommended to sustain the objection and not certify Robert "Bobby" Harner to the November 8, 2016 General Election ballot as a Tea Party candidate for the office of Representative for the 117<sup>th</sup> Representative District. The General Counsel concurred. Vice Chairman Gowen moved to adopt the Hearing Officer's Recommendation in which the General Counsel concurred. Member Cadigan seconded the motion which passed 8-0 by roll call vote.

The Chairman noted the appearance of John G. Fogarty, Jr., for the Objectors and Mr. Schluter appeared *Pro Se* in 2.g. *Swift & Patrick v. Schluter*, 16SOEBGE108. The number of signatures for the office of Representative in the 117<sup>th</sup> Representative District is 1,759. Candidate submitted 2,059 and the Objectors objected to 1,071 as not genuine; not registered at address shown; resides outside of district; address missing or incomplete and signer signed petition more than once. A binder check was necessary and both parties filed Dispositive Motions. The Records Check showed 697 objections were sustained, leaving a total of 1,362 valid signatures – 397 signatures less than required. As to the Motion to Dismiss, the Hearing Officer found the Objectors met the requirement of 10-8 and recommends the Motion be denied. Since the Candidate did not timely offer evidence to prove the staff findings to be in error and submitted no supporting evidence, he recommended the Rule 9 arguments be rejected. The Hearing Officer found no evidence that SBE staff violated 10 ILCS 7/5-10 and that the Candidate's Motion to Dismiss be denied and the Candidate's failure to submit the minimum number of valid signatures, his name not be certified to the ballot as a candidate to the office of Representative for the 117<sup>th</sup> Representative District. The General Counsel concurred. Member Keith so moved and Member Watson seconded the motion which passed unanimously by roll call vote.

The Chairman noted the Appearances of John G. Fogarty, Jr., for the Objector; Sam Cahnman in the Springfield office and co-counsel Andrew Finko in Chicago for the Candidate in 2.h. *Stocks v. Gill*, 16SOEBGE109. Discussion was had among the Board regarding the ruling of United States

District Court Judge Sue E. Myerscough's Order that enjoins the Board from enforcing the Election Code's signature requirement against David M. Gill in light of the fact that he has obtained 8,593 valid signatures and shown a modicum of support. Her order requires that Gill remain on the ballot for the 2016 General Election. Mr. Fogarty asked for a motion to have the hearing reopened to hear the objections he filed on pagination and circulators that were not heard, or ruled upon by the Hearing Officer. Member Keith moved to deny the motion and Member Watson seconded the motion. The motion failed 3-5 with Members Cadigan, Carruthers, Coffrin, McGuffage and Vice Chairman Gowen voting in the negative. Member Carruthers moved to reopen the Hearing allowing the Hearing Officer to hear other objections that were not considered at the Hearing. Member Coffrin seconded the motion which passed 7-1 with Chairman Scholz voting No. The Hearing Officer's supplemental recommendation will be scheduled for the next meeting.

As to 2.e. *Wicklund v. Gill*, 16SOEBGE106, Member Keith moved to defer action and the matter be continued to be heard at such time as the next hearing is held in the *Stocks v Gill* matter. Member Cadigan seconded the Motion which passed unanimously by roll call vote.

The Chairman called 2.i. *Sherman v. Soltysik & Walker*, 16SOEBGE504 and noted the appearance of Rob Sherman, the Objector, *pro se*. No one appeared for the Candidates. The number of signatures required to run for President and Vice President is 25,000. Candidates submitted 1. The Candidates did not dispute the count. Neither party submitted subpoena requests nor filed Motions. Based on the failure to file sufficient valid signatures, the Hearing Officer recommended to sustain the objection and not certify Emidio Soltysik and Angela N. Walker to the November 8, 2016 General Election ballot as candidates for President & Vice President of the Socialist Party USA. The General Counsel concurred. Member Keith moved to adopt the Hearing Officer's Recommendation in which the General Counsel concurred. Vice Chairman Gowen seconded the motion which passed 8-0 by roll call vote.

As to 2. j. *Sherman v. Vann*, 16SOEBGE505, Chairman Scholz note appearances of both parties. To run for President, candidate Vann, needed 25,000 valid signatures. She submitted 11. The Hearing Officer found Candidates failure to file a sufficient number of valid signatures and recommended to Sustain the objection and not certify Mary Vann to the November 8, 2016 General Election ballot as a Human Rights Party candidate for the office of President of the United States. The General Counsel concurred. Member Keith moved to adopt the Hearing Officer's recommendation in which the General Counsel concurred and sustain the objection. Vice Chairman Gowen seconded the Motion which passed unanimously by roll call vote.

The Chairman noted the appearance of Objector Sherman in 2.k. *Sherman v. Fluckiger & Koppie*, 16SOEBGE506 and no one present for the Candidates. Candidates were required to file 25,000 valid signatures. They filed 83. The Candidate did not dispute the count. Neither party submitted subpoena requests nor filed Motions. The Hearing Officer recommended to sustain the objection and not certify Frank Fluckiger and Chad Koppie to the November 8, 2016 General Election ballot as Constitution candidates for the offices of President and Vice President. The General Counsel concurred. Member Carruthers moved to adopt the Hearing Officer's Recommendation in which the General Counsel concurred. Member Coffrin seconded the motion which passed 8-0 by roll call vote.

Chairman Scholz called 2.l. *Sherman v. Conklin*, 16SOEBGE507 and noted the appearance of Objector Sherman and no one for the candidate. Candidate Conklin needed 25,000 valid signatures to run for United States Senator. He submitted 225. The Candidate did not dispute

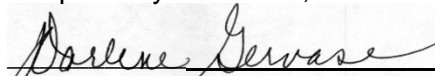
the count. Neither party submitted subpoena requests nor filed Motions. The Hearing Officer recommended to sustain the objection and not certify Eric M. Conklin to the November 8, 2016 General Election ballot as an Independent candidate for the office of United States Senator. The General Counsel concurred. Member Carruthers so moved to adopt the Hearing Officer's Recommendation in which the General Counsel concurred. Member Cadigan seconded the motion which passed 8-0 by roll call vote.

As to 2. m. *Weber v. Harsy*, 16SOEBGE508, Michael J. Kasper was present for the Objector in Chicago and Candidate Harsy was present in the Springfield office. The Candidate was required to file 1,792 signatures to run as an Independent for Representative from the 116<sup>th</sup> District. He submitted 631 signatures. The Candidate did not dispute the count. Dispositive Motions were filed by both parties. The Hearing Officer found the objector met the requirements of 10-8 and recommended the Candidates' Motion to Dismiss be denied. Further, candidate failed to file a sufficient amount of valid signatures and he recommended to sustain the objection and not certify Bubba Harsy to the November 8, 2016 General Election ballot as an Independent candidate for Representative for the 116<sup>th</sup> Representative District. The General Counsel concurred. Member Keith moved and Vice Chairman Gowen seconded a motion to adopt the Hearing Officer's Recommendation in which the General Counsel concurred. The motion passed 8-0 by roll call vote.

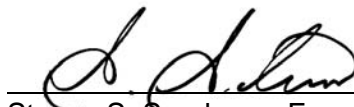
There being no other business before the State Officers Electoral Board Member Carruthers moved and Member Cadigan seconded a Motion to recess the State Officers Electoral Board until Monday, September 19, 2016 at 10:30 a.m. in Springfield or until call of the Chairman, whichever occurs first.

The State Officers Electoral Board meeting ended at 11:59 a.m.

Respectfully submitted,



Darlene Gervase, Admin. Asst. III



Steven S. Sandvoss, Executive Director

**Stocks v Gill**  
**16 SOEB GE 109**

**Candidate:** David M. Gill

**Office:** 17<sup>th</sup> Congressional

**Party:** Independent

**Objector:** Jerrold Stocks

**Attorney For Objector:** John G. Fogarty, Jr.

**Attorney For Candidate:** Sam Cahnman

**Number of Signatures Required:** 10,754

**Number of Signatures Submitted:** 11,348

**Number of Signatures Objected to:** 3,384

**Basis of Objection:** 1. The Candidate's nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including "Signer's Signature Not Genuine," "Signer Not Registered at Address Shown," "Signer Resides Outside of the District," "Signer's Address Missing or Incomplete," and "Signer Signed Petition More than Once." 2. The nomination papers should be disqualified in their entirety, or in the alternative, in part, because they were not numbered consecutively and some pages were numbered incorrectly. 3. The nomination papers contain petition sheets of two circulators who were not the true circulators of the sheets, did not personally witness the signatures that appear on their sheets and were not present at the time such signatures were purportedly made on their sheets. Such signatures appear to have been forged and written in the same hand and the sheets circulated by the two circulators at issue should be stricken in their entirety.

**Dispositive Motions:** Candidate's Motion to Strike and Dismiss and Motion for Production, Objector's Response to Motion to Strike and Dismiss

**Binder Check Necessary:** Yes

**Hearing Officer:** David Herman

**Hearing Officer Findings and Recommendations:** A records examination commenced and was completed on July 18, 2016. The examiners ruled on objections to 3,384 signatures. 2,755 objections were sustained, leaving a total of 8,593 valid signatures, which is 2,161 signatures less than the required 10,754 minimum number of signatures. Neither party submitted a Rule 9 Motion or any evidence contesting the finding of the records examination. The parties met and conferred

on July 21, 2016, the report of which shows agreement that Candidate needed 10,754 signatures to qualify for the ballot and notes that neither party planned to submit any Rule 9 evidence.

Candidate filed a Motion to Strike and Dismiss and a Motion for Production. Paragraphs 1 through 10 attacked objections based upon pagination and numbering of petition sheets and pattern and practice of fraud. Paragraph 11 cited Section 10-4 in support of Candidate's argument that Objector lacks standing to bring an objector's petition against an independent candidate because, on information and belief, Objector circulated or certified petitions for a Republican candidate during this election cycle. Paragraph 12 request that Objector be ordered to provide Candidate all evidence that Objector intends to rely upon in support of the claims raised in his petition.

Objector filed a Response to the Candidate's motions, arguing that his petition should not be dismissed because Section 10-4's requirement that petition sheets be consecutively numbered is mandatory and whether Candidate substantially complied with this requirement is a question of fact. Objector further argued that Candidate did not provide any basis for striking or dismissing any of the objections or for his request to compel the production of documents at this stage.

The Hearing Officer recommends that Candidate's Motion to Strike and Dismiss and Motion for Production be denied. The records examination resulted in Candidate being 2,161 signatures short of the minimum number of signatures required to be placed on the ballot and Candidate did not offer any Rule 9 evidence to rehabilitate signatures; therefore, Candidate is short of the required amount of signatures regardless of whether or not Objector's allegations contained in Paragraphs 1 through 10 are sustained. Accordingly, the Hearing Officer recommends that this part of the motion be denied.

Regarding Candidate's argument that Objector lacks standing to object to an independent candidate because he previously circulated for a Republican candidate during this election cycle, Section 10-8 of the Election Code provides that any legal voter of the political subdivision or district in which the candidate is to be voted on having objection to a candidate's nomination papers shall file an objection. Candidate does not allege that Objector fails to meet this requirement and only cites Section 10-4's prohibition against an individual circulating for an independent candidate or candidates in addition to on political party in support of his argument. Accordingly, the Hearing Officer recommends that this part of the motion be denied.

The Hearing Officer also recommends that Paragraph 12 of the Motion to Strike, which serves as a Motion for Production and requests that Objector provide all evidence he intends to rely upon in the case, be denied as the argument is moot as a result of Candidate's lack of valid signatures to qualify for the ballot.

Regarding the objection made to missing petition sheets and incorrect numbering of petition sheets, the Hearing Officer found that the argument is moot in light of the records examination results.

Similarly, regarding the two circulator objections, the Hearing Officer found that the argument is moot in light of the records examination results.

Based on the Candidate's failure to submit the minimum number of valid signatures required to be placed on the ballot, the Hearing Officer recommends that the Candidate's Motion to Strike and Dismiss and Motion for production be denied and that the Candidate's name not be certified to the ballot as a candidate to the Office of Representative in Congress for the 13<sup>th</sup> Congressional District in the State of Illinois to be voted for at the 2016 General Election.

**Recommendation of the General Counsel:** The General Counsel concurs in the Hearing Officer's recommendation.

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE HEARING AND PASSING UPON OBJECTIONS TO NOMINATION  
PAPERS OF CANDIDATES FOR ELECTION TO THE OFFICE OF  
REPRESENTATIVE IN CONGRESS FROM THE 13<sup>TH</sup> CONGRESSIONAL DISTRICT  
IN THE STATE OF ILLINOIS**

Jerrold Stocks, Petitioner-Objector,	)	
	)	
vs.	)	Case No. 16-SOEB-GE-109
	)	
David M. Gill, Respondent-Candidate.	)	

**RECOMMENDATION OF HEARING EXAMINER**

**I. PROCEDURAL HISTORY**

This matter commenced on July 5, 2016 when Jerrold Stocks filed a “Verified Objecter’s Petition” with the Illinois State Board of Elections. Stocks (hereinafter “Objector”) alleged that the nomination papers of David M. Gill for the Office of Representative in Congress from the 13<sup>th</sup> Congressional District in the State of Illinois (hereinafter “Candidate”) were insufficient in that they were not in conformance with certain provisions of the Illinois Election Code. Specifically, the Objector alleged that Candidate did not have a sufficient number of signatures to qualify as a candidate because:

- the nomination papers contained petition sheets with names of persons 1) who are not registered voters at the address shown, 2) whose addresses are not within the 13<sup>th</sup> Congressional District, 3) whose signatures were not genuine or signed by the proper person, 4) who signed the nomination papers more than once, and 5) whose addresses were missing or incomplete;
- the nomination papers should be disqualified in their entirety, or in the alternative, in part, because they were not numbered consecutively, several pages were missing, and some pages were numbered incorrectly;
- the nomination papers contained petition sheets purportedly circulated by Floyd Brown, who was not the true circulator of the petitions sheets that he purported to have circulated, did not witness the signatures that appears on his petition sheets and was not present at the time such signatures were purportedly made on his petition sheets, that numerous signatures on Mr. Brown’s petition sheets appear to not be genuine and that such signatures appear to have been forged and written in the same hand; and
- the nomination papers contained petition sheets purportedly circulated by David McCarver, who was not the true circulator of the petitions sheets

that he purported to have circulated, did not witness the signatures that appears on his petition sheets and was not present at the time such signatures were purportedly made on his petition sheets, that numerous signatures on Mr. McCarver's petition sheets appear to not be genuine and that such signatures appear to have been forged and written in the same hand.

On July 13, 2016, Candidate filed his 12-paragraph Motion to Strike and Dismiss and Motion for Production. Paragraphs 1 through 10 attacked objections based upon pagination and numbering of petition sheets and pattern and practice of fraud. Paragraph 11 cited 10 ILCS 5/10-4 in support of Candidate's argument that Objector lacks standing to bring an objector's petition against an independent candidate because, on information and belief, Objector circulated or certified petitions for a Republican candidate in this election cycle. Finally, Paragraph 12 requests that Objector be ordered to provide Candidate all evidence that Objector intends to rely upon in support of the claims raised in Objector's Petition. Candidate asserted no other arguments in support of his Motion to Strike and Dismiss and Motion for Production.

On July 18, 2016, Objector filed his Response to the Motion to Strike and Dismiss and Motion for Production wherein Objector argued that his Petition should not be dismissed because Section 10-4 of the Election Code's requirement that the pages of a petition be consecutively numbered is mandatory and that whether Candidate substantially complied with this requirement is a question of fact. Objector also argued that Candidate did not provide any basis for striking or dismissing any of the objections or for his request to compel the production of documents at this stage.

On July 18, 2016, a records examination was conducted by staff of the Illinois State Board of Elections. Both parties filed standing objections. However, neither party filed any Rule 9 evidence challenging the results of the records examination, which are discussed below.

The parties jointly submitted a Meet and Confer Report on July 21, 2016. The parties stipulated that the number of signatures required for an independent candidate to be placed on the ballot as a candidate for the office of Representative in Congress for the 13th Congressional District is 10,754.

## **II. ANALYSIS**

### **A. Motion to Strike and Dismiss and Motion for Production**

The Hearing Examiner recommends that Candidate's Motion to Strike and Dismiss and Motion for Production be denied. As stated, Paragraphs 1 through 10 of Candidate's Motion attack objections based upon the pagination and numbering and pattern and practice of fraud allegations in the Objector's Petition. However, the records examination resulted in Candidate being 2,161 signatures short of the minimum number of signatures to be placed on the ballot. Candidate did not offer any Rule 9 evidence to rehabilitate signatures that were not considered valid. Thus, Candidate is short of the amount of signatures needed, regardless of whether or not the objections based upon Objector's allegations that Candidate's nominating papers did not comply with the pagination and numbering requirements of Section 10-4 of the Election Code or that the petition sheets demonstrate a pattern and practice of fraud are sustained.

In Paragraph 11, of his Motion to Strike and Dismiss and Motion for Production, Candidate argues that Objector lacks standing to object to an independent candidate's petitions because, on information and belief, Objector circulated petitions for a Republican candidate. Candidate did not present any evidence in support of this assertion. Moreover, the only legal basis that Candidate cites to in support of his legal argument is Section 10-4 of the Election Code. However, that Section applies to circulators, not objectors. Specifically, Section 10-4 states that "no person shall circulate or certify petitions for candidates of more than one political party, or for an independent candidate or candidates in addition to one political party, to be voted upon at the next primary or general election, or for such candidates and parties with respect to the same political subdivision at the next consolidated election." 10 ILCS 5/10-4. As Objector points out, Section 10-8 addresses objections to nominating papers and states, in pertinent part, that "[a]ny legal voter of the political subdivision or district in which the candidate \* \* \* is to be voted on \* \* \* having objections to any certificate of nomination or nomination papers or petitions filed, shall file an objector's petition." 10 ILCS 5/10-8. Candidate does not allege that Objector's Petition fails to meet the requirements of Section 10-8.

In Paragraph 12 of his Motion to Strike and Dismiss and Motion for Production, Candidate moves for an order requiring Objector to provide all evidence Objector intends to rely on. This argument is moot and need not be considered because Candidate lacks the required number of signatures to be placed on the ballot.

For these reasons, the Hearing Examiner recommends that Candidate's Motion to Strike and Dismiss and Motion for Production be denied.

**B. Lack of Required Number of Signatures to Be Placed on the Ballot**

***1. Records Review of Challenged Signatures***

The records examination revealed that Candidate had collected a total of 11,348 signatures (Objector's Verified Petition alleged Candidate collected and submitted 11,462 signatures). There were 3,384 line objections reviewed at the records examination. At the conclusion of the records examination, there were 8,593 signatures considered valid (2,755 line objections were sustained, while 629 line objections were overruled). The summary report reflecting the results of the staff records exam is attached to this Recommendation as Exhibit A. After the records examination, Candidate did **NOT** have the required minimum of not fewer than 10,754 signatures to be placed on the ballot.

Neither Candidate nor Objector timely submitted a Rule 9 Motion or any evidence contesting the finding of the records examination conducted by the staff of the Illinois State Board of Elections. Accordingly, Candidate lacks the required number of signatures to be placed on the ballot.

***2. Missing Petition Sheets and Incorrect Numbering of Petition Sheets***

This argument is moot and need not be considered because Candidate lacks the required number of signatures to be placed on the ballot.

3. *The Petition Sheets Circulated by Floyd Brown*

This argument is moot and need not be considered because Candidate lacks the required number of signatures to be placed on the ballot.

4. *The Petition Sheets Circulated by David McCarver*

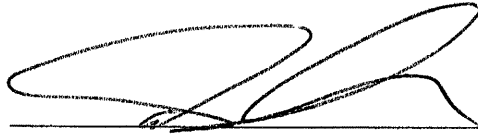
This argument is moot and need not be considered because Candidate lacks the required number of signatures to be placed on the ballot.

**III. CONCLUSION AND RECOMMENDATION**

Because Candidate has **NOT** met the minimum signature requirement to be placed on the ballot, the Hearing Examiner recommends that Candidate's Motion to Strike and Dismiss and Motion for Production be denied and that Candidate's name **NOT** be placed on the ballot as a candidate to the Office of Representative in Congress from the 13<sup>th</sup> Congressional District in the State of Illinois to be voted for at the General Election to be held on November 11, 2016.

The parties herein have until July 27, 2016 on or before 5:00 p.m. to file any exception to this Recommendation with the Hearing Examiner.

DATED: July 22, 2016

A handwritten signature in black ink, appearing to read 'David A. Herman', written over a horizontal line.

David A. Herman, Hearing Examiner

## CERTIFICATE OF SERVICE

Service of the foregoing document was made by electronic transmission, where indicated, to:

Jerrold Stocks  
c/o John G. Fogarty, Jr.  
4043 N. Ravenswood  
Suite 226  
Chicago, IL 60613  
[john@fogartylawoffice.com](mailto:john@fogartylawoffice.com)

David M. Gill  
c/o Sam Cahnman  
915 Second Street  
Springfield, IL 62704  
[samcahnman@yahoo.com](mailto:samcahnman@yahoo.com)

Ken Menzel  
Illinois State Board of Elections  
2329 S. MacArthur Blvd.  
Springfield, IL 62704  
[kmenzel@elections.il.gov](mailto:kmenzel@elections.il.gov)

on this 22nd day of July, 2016.



David A. Herman, Hearing Examiner

David A. Herman, Reg. No. 6211060  
GIFFIN, WINNING, COHEN & BODEWES, P.C.  
One West Old State Capitol Plaza  
Myers Building - Suite 600  
Springfield, Illinois 62701  
Phone: (217) 525-1571  
Fax: (217) 525-1710  
[dherman@giffinwinning.com](mailto:dherman@giffinwinning.com)

16SOEBGE109 STOCKS V. GILL

OBJECTOR(S)

JERROLD STOCKS  
500 S. HENDERSON ST.  
MT. ZION, IL 62549

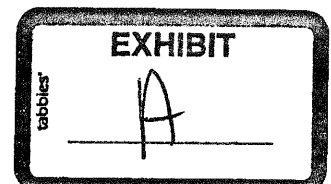
CANDIDATE(S)

DAVID M. GILL  
24 CONWAY CIRCLE  
BLOOMINGTON, IL 61704

INDEPENDENT  
13TH CONGRESS

OBJECTION TOTALS

Petition pages	814	Examined	3,384	
Lines with signatures	11,348	Valid ,	629	18.59%
Lines with objections	3,384 29.82%	Invalid	2,755	81.41%
Unchallenged lines	7,964 70.18%	Pending	0	0%
Required signatures	10,754	Over/Under required signatures	-2161	



**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD**

Jerrold Stocks,	)	
	)	
Petitioner-Objector,	)	
	)	
vs.	)	<b>16 SOEBGE 109</b>
	)	
David M. Gill,	)	
	)	
Respondent-Candidate.	)	

**RESPONSE TO MOTION TO STRIKE AND DISMISS**

Now comes the Petitioner-Objector Jerrold Stocks (“the Objector”) by and through counsel, and in response to the Candidate’s Motion to Strike and Dismiss and Motion for Production (“the Motion”) states as follows:

1. The Candidate asks to take the extraordinary step of dismissing, at the pleading stage, the allegations in the Objector’s Petition that the Candidate has failed to consecutively number the petition pages in his nomination papers. However, the Candidate cites no case that, on the facts presented here, could possibly justify such a remedy.

2. Section 10-4 of the Election Code is crystal clear that petitions must be consecutively numbered. 10 ILCS 5/10-4. The policy behind this mandatory requirement is obvious: a petition for nomination must be capable of evaluation for its legal sufficiency. The Candidate is correct that it is possible to substantially comply with the mandatory page numbering requirement. Perhaps the Candidate here has done so. Perhaps not. What is clear is that this is a question of fact that must be determined by the trier of fact, and not summarily dismissed on the pleadings.

3. Indeed, the Candidate's own Motion at paragraph 7 unwittingly acknowledges the factual nature of this argument, where he attempts to explain away some of the numerous page numbering issues of which the Objector complains, at the same time acknowledging that the page numbering is incorrect on a number of pages. In paragraph 7 c. of his Motion, in particular, the Candidate attempts to describe how a page number "could be read as 737" rather than 733, due to the poor penmanship of whomever numbered the Candidate's petitions. In paragraph 3 of his Motion, the Candidate actually boasts that only 2.1% of his petition pages are accurately numbered.

4. Respectfully, the Candidate's inability to accurately number his petition pages has resulted in much difficulty for anyone who wishes to evaluate the legal sufficiency of his nomination papers. This is evidenced by the rather elaborate notations on several of the Appendix Recap sheets that attempted to accurately capture the Candidate's page numbering. Whether the Candidate substantially complied with § 10-4 on the facts presented in this particular petition is a question of fact, to be determined at hearing, and the Candidate's Motion on this point must be denied.

5. In paragraphs 9 and 10 of his Motion, the Candidate asks that paragraphs 13 and 14 of the Objector's Petition (which allege pattern of fraud via circulator misbehavior) be stricken. The Candidate, however, provides no basis for doing so.

6. In paragraph 9, the Candidate argues that because the petition pages objected to were sworn before a notary, the allegation of pattern of fraud should be dismissed. Respectfully, this argument clearly misses the point, and does not even address the allegations of circulator misbehavior made in paragraphs 13 and 14 of the Objector's Petition.

7. In paragraph 10, the Candidate argues that because the Objector is not a disinterested witness, and has not alleged “clear and convincing evidence” the paragraphs should be stricken. Again, the Candidate misses the mark. The Objector has met all of the pleading requirements set forth in § 10-8 of the Election Code. The Candidate’s charge regarding alleging “clear and convincing” evidence is unfounded and must be rejected.

8. In paragraph 11, the Candidate charges that the Objector lacks standing because he may have circulated a petition for a partisan candidate during this election cycle. The Candidate misses the mark here, too. As set forth in § 10-8 of the Election Code, an objector need only be a “legal voter of the political subdivision . . .” The Candidate’s argument regarding standing is wholly without legal basis (factual basis too) and must be rejected.

9. Finally, in paragraph 12 of the Motion, the Candidate seeks to compel the production of all evidence upon which the Objector intends to rely at hearing, and especially with respect to the allegations of “pattern of fraud.” Quite simply, the Objector has alleged that the petition sheets purportedly circulated by Floyd Brown and David McCarver were not in fact circulated by them, and many of the signatures on those sheet appear to be forged. This circulator misbehavior is frankly obvious to the naked eye. Such evidence, the Candidate argues, should be provided “at the earliest possible moment.” The Objector could not agree more, and is hopeful that the Candidate will produce both Mr. Brown and Mr. McCarver for deposition in this matter. In the alternative, however, the Candidate provides no authority for his request, and no rationale for straying outside of the schedule the Hearing Officer in this case has ordered or will order. The Objector contends that any Order entered with respect to the production of documents or other matter should be entered in the context of a conference with the Hearing

Officer, so that intelligent decisions with regard to the activities of Mr. Brown and Mr. McCarver may be made.

**Conclusion**

WHEREFORE, for the reasons stated, the Objector respectfully request that the Candidate's Motion to Strike be denied.

Respectfully submitted,  
The Objector

By: /s/ **John Fogarty Jr.**  
One of his attorneys

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BEFORE THE DULY CONSTITUTED ELECTORAL BOARD  
FOR THE THE HARING AND PASSING UPON OBJECTIONS TO NOMINATION  
PAPERS OF CANDIDATES FOR ELECTION TO THE OFFICE OF  
REPRESENTATIVE IN CONGRESS FROM THE 13<sup>th</sup> CONGRESSIONAL DISTRICT  
IN THE STATE OF ILLINOIS

JEROLD STOCKS,  
Petitioner-Objector,

vs.

DAVID M. GILL,,  
Respondent-Candidate.

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NO. 16-SOEB-GE-109

RECEIVED

JUL 13 2016

State Board of Elections

CANDIDATE'S MOTION TO STRIKE AND DISMISS  
AND MOTION FOR PRODUCTION

NOW COMES the Respondent-Candidate, David M. Gill, by his attorney,  
Samuel

J. Cahnman, and for his motion to strike and dismiss and motion for production states a  
follows:

1. Subparagraph 11.a. and paragraph 12 allege there is no page 20 and see  
to therefore invalidate and strike "every sheet that follows page 20." Obviously if there  
is no page 20, then Objector is asking for nothing.

2. If the Objector is seeking to strike every page after 19, or every page after  
the 20<sup>th</sup> page in the petition, our Appellate Court has already ruled that such is  
improper. In Williams v. Butler, 34 Ill.App.3d 532,341 N.E.2d 394 (4<sup>th</sup> Dist. 1976) page  
191 was missing and the objector there, like the objector here, sought to strike all pages

thereafter. Our Appellate Court for this District held “that such omission does not constitute any basis for striking the remaining pages. Williams, 341 N.E.2d at 397.

3. The Objector has alleged page numbering issues for 17 other pages. Thus, the Objector complains about the numbering of 18 total pages in an 825 page petition or complains about a total of 2.1 per cent of the pages, which is clearly *de minimis*.

4. In Reynolds v. County Officers Electoral Board, 379 Ill.App.3d 423, 884 N.E.2d 1175 (4<sup>th</sup> Dist. 2008) 50 per cent of the petition pages were misnumbered and our Appellate Court for this District held this still constituted substantial compliance with the Election Code and was only a technical violation of the statute that didn’t affect the legislative intent to guarantee a fair and honest election. Reynolds, 884 N.E.2d at 1178.

5. In Stevenson v. County Officers Electoral Board, 58 Ill.App.3d 24, 373 N.E.2d 1043 (3<sup>rd</sup> Dist. 1978) none of the petition pages were numbered. Nevertheless, our Appellate Court held this was a technical violation and affirmed the electoral board’s denial of the objector’s petition.

The Appellate Court noted that:

“here plaintiff was able to object to several signatures before the Electoral Board without difficulty and identify the page in question.” Stevenson, 373 N.E.2d at 1044

6. The same is the case instantly. Objector’s Appendix is replete with objections to

individual signatures on the pages he asserts have numbering problems.

7. Each page that Objector claims is misnumbered is easily identified:

- a. pages 321 to 330 are missing simply because the person numbering them skipped from 320 to 331;
- b. as to the two pages numbered: 354, the first one is a full page and the second has only 9 signature and 6 blank lines;
- c. Objector alleges the page between 736 and 738 is a second page 733; however the number is handwritten and could be read as 737. Even if read as 733, it is easily distinguishable from the first 733, which had 4 signatures from Champaign County and 11 blank lines, whereas the second 733 is a full page, all from Sangamon County, except one from McLean.

8. In this case, as in Reynolds, there is no claim of voter confusion, tampering or fraud based on the page numbering allegations.

9. As to the allegations in Paragraphs 13 and 14 of a "pattern of fraud and false swearing", all the objected to pages were acknowledged by a notary. Our Appellate Court has held:

"Where an instrument has been acknowledged by a notary and is in substantial compliance with the statute, it may not be impeached except for fraud and imposition. (citation) Moreover, the party seeking to impeach such an acknowledgement, or record of conveyance, must do so by providing clear and convincing evidence coming from a disinterested witness. Resolution Trust Corp. v. Hardisty, 269 Ill.App.3d 613, 616-7 (3<sup>rd</sup> Dist. 1995)

10. Clearly, the Objector is not a disinterested witness, and he has alleged no evidence, let alone, clear and convincing evidence. Therefore, paragraphs 13 and 14 should be stricken and dismissed.

11. Section 10-4 of the Election Code prohibits a person from circulating the petitions of a candidate of one political party and for an independent candidate in the same election cycle. On information and belief, the Objector circulated or certified petitions for a Republican candidate in this election cycle. Therefore, the Objector lacks standing to to bring an objector's petition against an independent candidate in this election cycle.

12. Finally, the Candidate moves for an order requiring the Objector to promptly provide to the Candidate all evidence the Objector intends to rely upon in regards to the claims raised in his Objector's Petition. The Objector alleged a "pattern of fraud and false swearing" with an "utter and contemptuous disregard for the mandatory provisions of the Election Code" in paragraph 14. There is no good reason why Objector's evidence of such should not be produced to the Candidate at the earliest possible moment. An immediate and ongoing duty for the Objector to provide Candidate with with relevant evidence will help ensure fairness in these proceedings, without putting any undue burden on the Objector.

WHEREFORE, the Candidate prays that:

- A. the Objector's Petition be dismissed in its entirety; or that
- B. paragraphs 11 – 14 of said Petition be stricken and dismissed; and that
- C. Objector be ordered to produce all relevant evidence in his possession to the Candidate immediately, and that Objector promptly produce any future evidence immediately after it has become known to Objector; and
- D. provide such other relief as the Board deems adequate and just.

Respectfully submitted,  
DAVID M. GILL,  
Respondent-Candidate,

By: \_\_\_\_\_

  
SAMUEL J. CAHNMAN

Attorney for Respondent-Candidate

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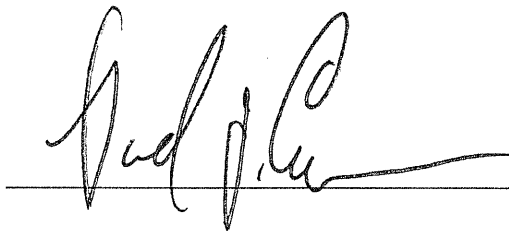
### PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the following persons by enclosing same in an envelope addressed as indicated with postage fully prepaid and by depositing same in the U.S. Post Office Mail Box and by email on the 13<sup>th</sup> day of July, 2016:

John G. Fogarty, Jr.  
Attorney at Law  
4043 N. Ravenswood  
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Chicago, IL 60613  
[john@fogartylawoffice.com](mailto:john@fogartylawoffice.com)

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Illinois State Board of Election  
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David A. Herman  
Giffin, Winning, Cohen & Bodewes, P.C.  
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Myers Building, Suite 600  
Springfield, IL 62701  
[dherman@giffinwinning.com](mailto:dherman@giffinwinning.com)

A handwritten signature in black ink, appearing to read "David A. Herman", is written over a horizontal line.

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING  
AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS FOR  
CANDIDATES FOR THE OFFICE OF REPRESENTATIVE IN CONGRESS FROM  
THE 13<sup>th</sup> CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS**

**Jerrold Stocks,** )  
 )  
**Petitioner-Objector,** )  
 )  
**vs.** )  
 )  
**David M. Gill,** )  
 )  
**Respondent-Candidate.** )

ORIGINAL ON FILE AT  
STATE BD OF ELECTIONS  
ORIGINAL TIME STAMPED  
AT 4:03p 7/5/16 all

**VERIFIED OBJECTOR'S PETITION**

Now comes Jerrold Stocks (hereinafter referred to as the "Objector"), and states as follows:

1. Jerrold Stocks resides at 500 S. Henderson Street, Mt. Zion, Illinois 62549, in the 13<sup>th</sup> Congressional District of the State of Illinois; that he is duly qualified, registered and a legal voter at such address; that his interest in filing the following objections is that of a citizen desirous of seeing to it that the laws governing the filing of nomination papers for a candidate for election to the office of Representative in Congress from the 13<sup>th</sup> Congressional District of the State of Illinois are properly complied with and that only qualified candidates have their names appear upon the ballot as candidates for said office.

2. Your Objector makes the following objections to the nomination papers of David M. Gill ("the Nomination Papers") as an independent candidate for the office of Representative in Congress from the 13<sup>th</sup> Congressional District of the State of Illinois, and files the same herewith, and states that the said Nomination Papers are insufficient in law and in fact for the following reasons:

3. Your Objector states that in the 13<sup>th</sup> Congressional District of the State of Illinois the signatures of not fewer than 10,754 duly qualified, registered, and legal voters of the said 13<sup>th</sup> Congressional District of the State of Illinois are required for a candidate to qualify as an independent candidate for said office. In addition, said Nomination Papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise be executed in the form and manner required by law.

**The Candidate Has An Insufficient Number Of Signatures To Qualify For Office**

4. Your Objector states that the Candidate has filed at least 825 petition signature sheets purporting to contain 11,462 signatures of allegedly duly qualified, legal, and registered voters of the 13<sup>th</sup> Congressional District of the State of Illinois.

5. Your Objector states that the laws pertaining to the securing of ballot access require that certain requirements be met as established by law. Filings made contrary to such requirements must be voided, being in violation of the statutes in such cases made and provided.

6. Your Objector further states that the aforesaid Nomination Papers contain the names of numerous persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names in the Thirteenth Congressional District and their signatures are therefore invalid, as more fully set forth in the Appendix Recapitulation under Column "A" designated "SIGNER NOT REGISTERED AT ADDRESS SHOWN," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

7. Your Objector further states that the said Nomination Papers contain the names of numerous persons who have signed said petition but who are not, in fact, duly qualified, registered, and legal voters at addresses that are located within the boundaries of the Thirteenth

Congressional District as shown by the addresses they have given on the petition, as more fully set forth in the Appendix-Recapitulation under Column "B" designated "SIGNER RESIDES OUTSIDE DISTRICT," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

8. Your Objector further states that the said Nomination Papers contain the names of numerous persons who did not sign the said nomination papers in their own proper persons, and that the said signatures are not genuine, as more fully set forth in the Appendix-Recapitulation under the Column "C" designated "SIGNATURE NOT GENUINE / NOT SIGNED BY PROPER PERSON," attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

9. Your Objector further states that said Nominating Papers contain the signatures of various individuals who have signed the petition more than once, and such duplicate signatures are invalid, as more fully set forth in the Appendix-Recapitulation, under Column "D" designated "SIGNED PETITION TWICE" at the sheet and line #s indicated, attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

10. Your Objectors state that said Nominating Papers contain the signatures of various individuals who have signed the petition, but have failed to provide a complete residence address as more fully set forth in the Appendix-Recapitulation, under Column "E" designated "SIGNER'S ADDRESS MISSING OR INCOMPLETE" attached hereto and made a part hereof, all of said signatures being in violation of the statutes in such cases made and provided.

11. Your Objector further states that § 10-4 of the Election Code requires that any nominating petition submitted pursuant to Article 10 must be securely fastened and "shall then

be numbered consecutively.” 10 ILCS 5/10-4. The Nomination Papers herein contested are legally deficient because the said petition sheets are not numbered consecutively, in contravention of the Election Code, but also rendering the Nomination Papers impossible to accurately assess for their validity. In particular, the Nomination Papers contain the following defects:

- a. There is no page 20.
- b. There is no page 188.
- c. There are no pages 321, 322, 323, 324, 325, 326, 327, 328, 328 or 330.
- d. There are two pages numbered 354.
- e. There is no page 533.
- f. There is no page 555.
- g. There is no page 559.
- h. The page appearing between pages 736 and 738 appears to be numbered “733,”

rendering said sheet both out of order and a duplicate of page 733.

12. This Honorable Electoral Board should disqualify the Nomination Papers in their entirety due to the Candidate’s failure to accurately number said petition sheets. In the alternative, each and every sheet that follows page 20 should be invalidated and stricken, given the severe numbering discrepancies present, all of which render the Nomination Papers impossible to accurately review for validity.

13. Your Objector further states that the Nomination Papers contain petition sheets purportedly circulated by individuals whose petition sheets demonstrate a pattern of fraud and disregard of the Election Code to such a degree that every signature on every sheet purportedly circulated by said individuals are invalid, and should be invalidated, in order to protect the

integrity of the electoral process, in accordance with the principles set forth in the decisions of *Canter v. Cook County Officers Electoral Bd.*, 170 Ill.App.3d 364, 523 N.E.2d 1299 (1<sup>st</sup> Dist. 1988); *Huskey v. Municipal Officers Electoral Bd. for Village of Oak Lawn*, 156 Ill.App.3d 201, 509 N.E.2d 555 (1<sup>st</sup> Dist., 1987) and *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1<sup>st</sup> Dist. 1984).

14. Your Objectors state that there will be presented substantial, clear, unmistakable, and compelling evidence that establishes a “pattern of fraud and false swearing” with an “utter and contemptuous disregard for the mandatory provisions of the Election Code.” In addition, an examination of the nominating petitions hereunder will reveal a pervasive and systematic attempt to undermine the integrity of the electoral process. Consequently, your Objector states that this Electoral Board “cannot close its eyes and ears” but will be compelled to void the entire nominating petition as being illegal and void in its entirety. This allegation is made with specific reference to all of the petition sheets circulated by at least the following individuals for at least the following reasons:

- a. Floyd Brown. Mr. Brown is not the true circulator of the petition sheets that he purports to have circulated, has not witnessed the signatures that appear on his petition sheets, and was not present at the time such signatures were purportedly made on his petition sheets, in violation of the Election Code. Moreover, numerous signatures on Floyd Brown’s petitions appear to be not genuine, and such signatures appear to have been forged and written in the same hand. Floyd Brown purports to have circulated at least petition nos: 121-128, 534, 537, 557, 794 and 814-817.
- b. David McCarver. Mr. McCarver is not the true circulator of the petition sheets that he purports to have circulated, has not witnessed the signatures that appear on his petition sheets, and was not present at the time such signatures were purportedly made on his petition sheets, in violation of the Election Code. Moreover, numerous signatures on David McCarver’s petitions appear to be not genuine, and such signatures appear to have been forged and written in the same hand. David McCarver purports to have circulated at least petition nos: 31-34, 208, 211, 214, 300, 303, 306, 309, 312, 315, 318, 331, 367, 369, 373-378, 380, 382-388, 390-392, 394, 396, 397, 400, 401, 404, 405, 407, 410-412, 414, 416,

419, 420, 422, 423, 425, 428, 430, 431, 433, 435, 436, 437 (there are 2 pages marked 437 which have McCarver's signature on them), 439, 440, 442, 443, 445, 447, 458, 511, 772, 773, and 798-802.

15. Your Objector states that the Nomination Papers herein contested consist of various sheets purportedly containing the valid and legal signatures of 11,462 individuals. The individual objections cited herein with specificity reduce the number of valid signatures below the statutory minimum of 10,754.

WHEREFORE, your Objector prays that the purported Nomination Papers of David M. Gill as an independent candidate for the office of the Representative in Congress for the 13<sup>th</sup> Congressional District of the State of Illinois be declared by this Honorable Electoral Board to be insufficient and not in compliance with the laws of the State of Illinois and that the Candidate's name be stricken and that this Honorable Electoral Board enter its decision declaring that the name of David M. Gill as an independent candidate for the office of the Representative in the Congress for the 13<sup>th</sup> Congressional District of the State of Illinois BE NOT PRINTED on the OFFICIAL BALLOT at the General Election to be held on November 8, 2016.

Respectfully submitted,

  
OBJECTOR

## VERIFICATION

The undersigned as Objector, first being duly sworn on oath, now deposes and says that [he] [she] has read this VERIFIED OBJECTOR'S PETITION and that the statements therein are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that [he] [she] verily believes the same to be true and correct.

## OBJECTOR

County of MACON )  
 )  
State of Illinois ) ss.

Subscribed to and Sworn before me, a Notary Public, by Terrold Stocks, the  
Objector, on this the 5<sup>th</sup> day of July, 2016, at Decatur, Illinois.

Garth Walden (SEAL)  
NOTARY PUBLIC

My Commission expires: 11-18-2019

